

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
COLUMBIA DIVISION

UNITED STATES OF AMERICA

V

3:11-00005

JUDGE HAYNES

MICHAEL RAY GREEN, JR.

OBJECTION TO
RULE 404B EVIDENCE

Comes the defendant by and through counsel to file objection to the Government's use of 404(b) and would show that the evidence listed is not material to the charge, that is, sale of cocaine on December 15, 2010, or sale of cocaine on January 24, 2011. For Grounds, the defendant would show the following:

1. 21 U.S.C. 841 punishes a person who possesses with intent to distribute and did distribute a quantity of a mixture and substance containing a detectable amount cocaine. That is the charge in the indictment.
2. In reviewing discovery the defendant has found alleged incidents of attempted sales of cocaine heard on tape and found in incident reports. The incidents did not occur on December 15, 2010, or January 24, 2011. The alleged incidents are not charged in the indictment and if offered for evidence, are objectionable because the incidents would be provided to prove character.

404(b) Crimes, Wrongs, or Other Acts. (1) Prohibited Uses. Evidence of a crime, wrong, or other act is not admissible to prove a person's character in order to show that on a particular occasion the person acted in accordance with the character.

3. Sixth Circuit practice mandates that the Court make a determination of admissibility of 404(b) exhibits.